

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
HAIM YUZARY,

Petitioner,

- against -

UNITED STATES OF AMERICA,

Respondent.  
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04 Civ. 2809 (RPP)  
96 Cr. 967 (RPP)

**OPINION AND ORDER**

**ROBERT P. PATTERSON, JR., U.S.D.J.**

On December 13, 2007, Petitioner filed a notice of appeal of this Court's denial of his Rule 60(b) motion, which is liberally construed as including an application for a certificate of appealability. See Kellogg v. Strack, 269 F.3d 100, 103 (2d Cir. 2001). As Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; see Lozada v. United States, 107 F.3d 1011 (2d Cir. 1997), abrogated on other grounds by United States v. Perez, 129 F.3d 255, 259-60 (2d Cir. 1997).

IT IS SO ORDERED.

Dated: New York, New York  
January 2, 2008



Robert P. Patterson, Jr.  
U.S.D.J.

**Copies of this Opinion and Order sent to:**

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